

**Remarks/Arguments:**

Claims 36 and 37 have been rejected under obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,052,465. Furthermore, claims 36 and 37 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,706,047 (Lentz et al.) in view of U.S. Patent No. 3,752,961 (Torrey) and Official Notice. It is respectfully submitted, however, that these claims are patentable over the art of records for the reasons set forth below.

Applicants' invention, as recited by claim 36, includes a feature which is neither disclosed nor suggested by the art of record, namely:

. . .an information recording area. . .

an identifier for indicating whether or not said barcode-like mark is present on said optical disk. . .

said identifier is provided in the information recording area

This feature is supported by the originally filed application at page 3, lines 1 -5. No new matter has been added.

This feature is not recited in claims 1 and 2 of U.S. Patent No. 6,052,465. Therefore, withdrawal of the obviousness-type double patenting rejection is respectfully requested.

In addition, neither Lentz nor Torrey disclose this feature. The Official Action acknowledges that "Lentz does not teach inclusion of an identifier." Furthermore, the Official Action acknowledges that "Torrey does not teach the use of an identifier." Thus, even by combining Lentz and Torrey, Applicants' claim 36 does not result. While the Official Action takes official notice "that the use of a control data area of a disk to write identifiers is a step that is old and well known in the art," no reference has been placed on the record which discloses the feature of an identifier which indicates presence or absence of a barcode. As this feature is neither disclosed nor suggested by the art of record, claim 36 is patentable over the art of record.

Claim 37 is also patentable by virtue of its dependency on allowable claim 36.

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Applicants have added new claim 38. Claim 38 recites the feature of:

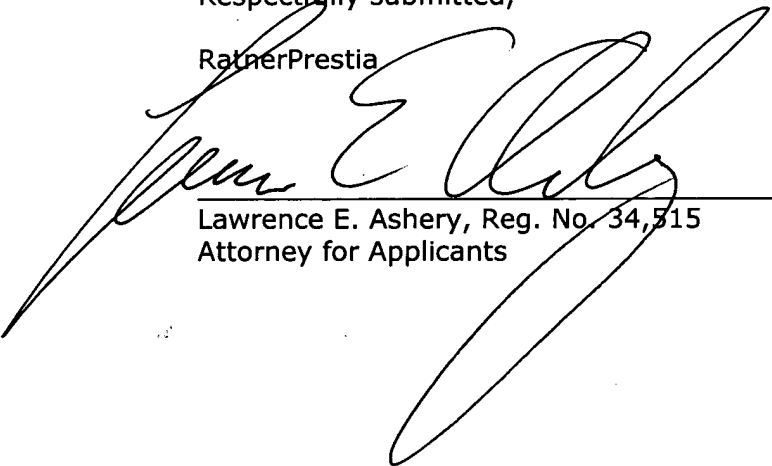
...an identifier on said optical disk and separate from said barcode-like mark for indicating whether or not said barcode-like mark is present on said optical disk

Again, this feature is neither disclosed nor suggested by the art of record. Accordingly, claim 38 is patentable over the art of record.

For the reasons set forth above, the above-identified application is in condition for allowance which action is respectfully requested.

Respectfully submitted,

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September 22, 2003

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